

THE  
T R I A L  
OF  
*Richard Dry,*  
BEFORE THE  
Hon. Mr. BARON METGE,  
AND THE HONOURABLE  
Mr. BARON SMITH,  
AT A GENERAL ASSIZES AND GENERAL  
GAOL DELIVERY,  
HELD IN AND FOR THE COUNTY OF THE CITY  
OF CORK,  
AT THE KING'S OLD CASTLE, CORK.

*On Thursday, the 21st day of Sept. 1797,*  
ON AN INDICTMENT FOR FELONIOUSLY TEN-  
DERING, AND CAUSING TO BE TENDERED,  
AN UNLAWFUL OATH TO ONE  
CHARLES CALLANAN.

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1797.

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# T R I A L, &c.

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Thursday, 21st Sept. 1797.

The Prisoner was given in charge to the following  
Jury.

ROWLAND MORRISON, (Foreman.)

JOHN SWEETE.	JOHN BERNARD.
JOHN GOOD.	LAURENCE FOWKE.
JOHN TRAVERS.	MICHAEL SHANAHAN.
HENRY FORTESCUE, Jun.	THOMAS SHEEHAN.
JOHN FOOTE.	SAMUEL REILLY.
JEREMIAH GALWAY.	

*Counsel for the Prosecution—Messrs. DAY, EGAN,  
S. O'GRADY, and TOWNSEND—Agent Mr. COL-  
BOURNE.*

*For the Prisoner—Messrs. H. GRADY, and HEN-  
RY and JOHN SHEARES—Agent Mr. BENNET.*

MR. TOWNSEND opened the Indictment, which he stated to consist of six Counts, grounded on the 27th of the King, for tendering and causing to be tendered an Unlawful Oath. The *first Count*, that he should become an United Irishman—the *second*, that he would be true, and the *third*, that he would persevere in forming a brotherhood of affection between Irishmen of all religious persuasions. The three last Counts only differ from the three first, in charging him with causing to be tendered an Unlawful Oath.

Mr. EGAN read the clauses of the Act on which the Indictment was framed, and shortly stated the Case for the Prosecution.

DENIS M' A U L Y, *the first Witness on the part of the Crown.*

*Examined by Mr. DAY.*

Q. Do you know the Prisoner?

A. I do.

Q. You have been in company with him?

A. I have.

Q. Will you state to the Court and the Jury in what manner you became first acquainted?

A. I will, as nearly as I can recollect: On the Eighth of May I was brought to a house in Fishamble Lane; I was introduced to him as a United Irishman.

Q. By whom were you brought to that house?

A. By one CONNELL: and CONNELL was the man that swore me, and told me it was by order of DRY.

Q. Who was it introduced you into that Society?

A. It was CONNELL.

Q. Where was it he took you to?

A. To the house of one CARROL, in Fishamble-Lane.

Q. It was the first place that you had any intimation of the design?

A. It was the first place that I came regularly to understand what it was.

Q. Did you communicate what you discovered to any one?

A. I did, to Captain FRENCH and Captain CRAWFORD.

Q. You then communicated it to your Officer?

A. I did.

Q. What was the result of that conversation with Captain FRENCH? What did he advise you to do?

Mr. O'GRADY, (*for the Prisoner,*) objected to the question: It is not fit to ask him the conversation he had with his Officer, and the Prisoner not by.

Court. It is no evidence, to be sure, but I believe

it is to account for his continuing in the Society—  
You may ask him that question.

Q. After you had communicated what you knew to your Officer, how came you to go again to the Society?

A. I went to see the designs of the Meeting.

Q. By whose desire?

A. I got liberty to go there.

Q. Then you went to see what was the design of the Society.

A. I did.

Q. I believe you said that CONNELL was the person that introduced you first to the Prisoner as a United Irishman?

A. Yes; to him and others.

Q. At the first Meeting where was it held?

A. In Fishamble-Lane.

Q. Will you tell, if you please, the subject of conversation.

A. It was not much that night, because I could not be out after hours: I said I could not, but I could.

Q. How many were present?

A. I cannot recollect.

Q. The Prisoner, was he present there?

A. He was.

Q. What number were there present?

A. About three or four.

Q. Were they seated?

A. They were seated.

Q. Did any of them seem to have any command?

A. Not at that night.

Q. You had another interview?

A. Yes.

Q. Were there many present at that Meeting?

A. There were.

Q. How many?

A. Fourteen or fifteen. It was at the same house.

Q. Did any person appear to have any command on that night?

A. Yes, there was.

Q. Which of them?

A. On that Evening it was a man of the name of ATKINS that was in the Chair; he delivered a speech from the Chair. The Prisoner was not there at that time.

Q. I asked you if you had been at any Meeting at which the Prisoner was present?

A. We met every day, and on Tuesday after he was talking on the subject of the business—

Q. Who was?

Court. This was a fourth Meeting?—A. I cannot recollect the days of the month.—We do not desire that, but be precise as to the number of Meetings.

A. There were many, but I will go to the Meeting of after that night, which is the only one I can say any thing of.

Q. Was the Prisoner present?

A. He was.

Q. What did he say?

A. He asked me if I had many of the Constitution Books? I said I had one, and he said that was too little.

Q. What do you mean by that book?

A. It is a small printed book, that had the Oaths, and how to manage them.

Court. What did he ask you?—A. He asked me if I had got many of the Constitution books, and I said I had one, and he said that was too little for a Regiment—that ten would be necessary, in order to form ten Societies.

Q. Of what?

A. United Irishmen.

Q. What did he mean by saying ten would be necessary for a Regiment? What Regiment?

A. The Roscommon. He said it was that Regiment.

He said that HAMILTON and me, as he had authorised us to act, one as Secretary, and the other as Treasurer—

Q. Who was to authorise you?

A. The Prisoner: me to act as Secretary and HAMILTON as Treasurer.

Q. Do you mean to the Regiment or to the Society?

A. To form societies in the Regiment.

Q. Of what?

A. Of United Irishmen; when we would *put up* as many as would amount to fifteen or sixteen, that is to swear them as United Irishmen.

Q. What do you mean by putting *up*?

A. That is attesting them: for no man was to be admitted that did not take the Oath.

Q. When the Society was divided another Secretary and Treasurer was to be appointed?

A. When the first Society was split, and made into two, a Secretary and Treasurer was to be appointed by ballot.

Q. Then each society was to consist of about fifteen?

A. Yes, or more.

Court. Did you say ballotted for?

A. Yes, my Lord. The Secretary was to hold the books. There was a Secretary put into the Chair that night.

Q. Was the Prisoner DR Y present?

A. He was.

Q. What did he do?

A. The Secretary was agreed to without ballot. DR Y took paper and pen and ink, and wrote the names of the members.

Q. Was it he that named the members?

A. Yes; he wrote the names of all the members present except the soldiers, because they were for the purpose of their own Regiment.

*Court.* Then the soldiers were to form societies in themselves?—*A.* Yes, my Lord; that was the reason they were not put down.

*Q.* Then in all this business Dr Y took the lead?

*A.* He did; every thing that was done was by his order, concerning the United Irishmen. He then took the names, after he had cut them, and put them into a hat, and shook them, and then drew them and read them, and placed them on the left side of the Secretary, to form a new Society, as two could do more than one.

*Q.* When he drew half out, those that remained were to be the oldest members?

*A.* Yes, sir.

*Q.* Then he made two societies out of the one?

*A.* Yes—he then moved that the subscription laid on the members had not been paid.

*Q.* Who moved that?

*A.* Dr Y—that they had not been given in.

*Q.* What subscription?

*A.* Of three pence a week, as trade was bad, and they could pay no more.

*Q.* For what purpose was this subscription?

*A.* To purchase arms.

*Q.* And what was the use to be made of those arms, as he told you?

*Q.* (*For Prisoner.*) Did he tell you?

*A.* He did. The use was to purchase arms: I asked him the reason; he told me it was an easier method of getting them, than by going with force and taking them from gentlemen, as the Defenders had done before.

*Q.* When they were purchased what use was to be made of them? Did he tell you any use that was to be made of them?

*A.* He told me, that there was an embargo laid on the French Ports, but that it was expected to be off on the tenth—

Q. Tenth of what?

A. Of May—that month.

Court. Tenth of May?—A. Yes.—Q. You asked him what was to be the use, and he said the French ports were shut, but that it was expected to be off the Tenth—the Tenth was passed then?—A. Yes, my Lord.

Q. Now proceed.

A. When the French fleet would sail, whether they failed or made their landing good, it was no matter.

Q. Do you mean, whether the French fleet fell in with ours?

A. Yes, sir.

Q. Well?

A. That when we would hear of their being out, it would be so contrived by the deputies from one society to another, that the societies would know of it at once to prevent confusion.

Q. For what?

A. For the purpose of preventing any confusion, but would know it all on one day, to rise up and take arms.

Q. He told you there was a use?

A. Yes.

Q. What was it?

A. To join the French and form a Republican Government in Ireland, and to have no King, nor the present Constitution.

Court. And what was the object?—A. To join the French, and have no King, and overturn the Constitution.

Q. That was the object, as communicated to you by the Prisoner?

A. It was. He told me he was come from Dublin for the purpose of organizing the Societies.

Q. Sent by whom?

A. I really cannot tell: from the body.

Q. Societies of what?

A. Of United Irishmen. He said there had been good men sent to them, but they did not know how to make regular returns, and he had come to organize them, and put them on a new system. He told us he had been in Dublin goal for two years, and was pilloried, and that he went to one LEARY in Roscommon with money, and that he was put into goal there as a man that had no place of residence.

Q. I think you said no person was admitted to be a member that did not take a certain oath?

A. Yes.

Q. Was the oath shewn to you by any person?

A. Yes.

Q. By whom?

A. CONNELL administered it to me, and when he sent him for the books.

Court. Q. Who sent him for the books?—A. DR Y, for the purpose of the regiment. It was pointed out in the book what was to be taken by every United Irishman; and no rotten members were to be admitted.

Q. When the books were brought, what then?

A. When they were given to me I looked at them, it was for the purpose of forwarding it in the regiment.

Q. Who got the books?

A. I got them—ten of them.

Q. Would you know any of them?

A. I would.

Q. How?

A. Because I wrote my name on one of them, and Captain F R E N C H put his initials. (A book produced to the witness.)

Q. Did you ever see that book before?

A. I did, it is the very book.

Q. Is that the book you put your name upon?

*A.* Yes, it is my name and my own hand-writing.

*Q.* Turn over the leaf and see if there is any Oath?

*A.* I know there is—if it is not torn; there is—  
(*The witness identified the book.*)—After I was sworn I was to get the signs and grips to know each other by.

*Court.* Is that book paged?—*A.* Yes.

*Q.* What page does the oath occur in?

*A.* In page five.

*Q.* There are some initial letters there?

*A.* There are, R. F.

*Q.* Did you see any body write that?

*A.* I saw ARTHUR FRENCH.

*Court.* What were Dr. R.'s expressions when he gave you the books?—*A.* That it was the test oath of the United Irishmen, and that every man must take it, or that he cannot become a United Irishman.

*Q.* You were in communication all along with your Officer?

*A.* I was.

*Q.* Was there any levy collected to your knowledge?

*A.* I did see some; but I cannot say how much was the sum.

*Q.* By whom?

*A.* It was reached over to him.

*Q.* To whom?

*A.* To Dr. R.

*Q.* And what did he do with it?

*A.* I believe he handed it over to the Treasurer to put into the chest.

*Court.* Did you see it handed to the Prisoner?—  
*A.* I did, my Lord.

*Q.* Do you know a man of the name of CALANAN?

*A.* I do.

Q. Have you been in company with him any night.

A. Yes.

Q. Where?

A. At C A R R O L ' s in Fishamble-lane.

Q. Do you mean at one of those meetings?

A. Yes it was at one of those meetings.

Q. Then you saw him at one of those meetings?

A. Yes, Sir.

Q. Was he a member or not?

A. He seemed to be a member—I dare say he was for a short time.

Q. Why do you say he was a member, because you are only to speak as you know?

A. Because he sat there and joined them, he said, I don't understand this business you are about—I don't like—I have taken the Oath of Allegiance to my King, and I have a Brother-in-Law in the army, and I work for the Mayor, and if it was found out I should be ruined.

Q. What work?

A. A Brafs-Founder.

Q. Did D R Y or any body else tell you he was a United Irishman?

A. Yes.

Q. Did any body mention the oath?

A. Yes, he would not be admitted if he did not take it.

Q. Who told you that?

A. I heard it among them.

Q. Did D R Y?

A. I can't point him out more than any other, but after he left the room D R Y said he was a bad man, and that the man had deceived them, by introducing a rotten member into the Society.

Q. What was the man that introduced him?

A. A Shoe-maker, but I did not know his name.

Q. Is there any thing else you have not men-

tioned—you are bound by your oath to tell the whole truth, and nothing but the truth?

A. As to the days of the month I cannot tell, but it all happened from the eighth to the twenty-first. On Sunday night there was a meeting, he was not there.

Q. You are not to mention any thing he was not present at?

A. It was reported there that he was at a meeting on the Flags.—After the meeting broke up we went to a house and had some Porter: while we were there a tall black man came in and called for a pint of Porter: after sitting some time, the tall man said, I suppose you are United Cork-men. One looked at the other, and one of them said, I will go and see what he is made of: it was then said it was LAW LOR, who had prosecuted some people in Dublin, and that if it was, that it would be necessary to put him out of the way. DRY was sent for that they might be certain if it was LAW LOR or not, and it was reported that DRY was in bed: he came and seemed frightened, and had his hand hiding his face, and took a fide observation of the man as he passed him, and called a little on one fide that it was not LAW LOR.

Q. Had DRY any mark on him at any of those meetings?

A. He had a cut in his face, between the eyes, which was covered with a piece of black silk.

*Cross-examined by Mr. GRADY.*

Q. Pray what regiment do you belong to?

A. To the Roscommon?

Q. How long are you in the regiment?

A. I believe since the tenth of August, 1793.

Q. What business were you before you entered into the army?

A. I followed my trade.

Q. What trade?

**A.** A Shoe-maker.

**Q.** Where did you carry it on?

**A.** Where it suited me best.

**Q.** Where did you live?

**A.** In Athleague, in the county of Roscommon.

**Q.** You were sometimes a Traveller?

**A.** For a short time.

**Q.** You can read and write?

**A.** I can.

**Q.** You are a common soldier—is that the common sword of the regiment?

**A.** It is a sword I took from an United Irishman, that was going to strike me.

**Q.** You are not in the regular uniform?

**A.** No I am not.

**Q.** Is that the common uniform coat of the regiment?

**A.** No it is not.

**Q.** You are out of uniform then—a common soldier not in uniform?

**A.** I don't know what you mean.

**Q.** Are you not in disguise?

**A.** I am in my own dress.

**Q.** Is that the soldier's dress of the regiment?

**A.** I am not out of uniform, because I wear my own clothes.

**Q.** Where did you get that coat?

**A.** I got it from the master tailor of the regiment, when he had not my new one made in place of my own, if you will know it. I was always able to provide better clothes than were allowed by the regiment; it is the uniform, and I was allowed to get better than any other in the regiment.

**Q.** Then they always made a distinction?

**A.** They did not, but if a man has liberty to work, and money to earn, he could buy what clothes he pleased.

**Q.** Is that a common soldier's coat?

*A.* It is not.

*Q.* If you were to wear it on parade, would you not be whipped or confined?

*A.* I would not, I have been on parade with it.

*Q.* How often?

*A.* I can't tell.

*Q.* Is it a year ago—is it a year old?

*A.* It is not a year ago.

*Court—Q.* You had better recollect and answer fairly.

*Q.* By virtue of your oath where did you get it and when?

*A.* Did I not tell you when the new cloths was given out.

*Q.* How long ago?

*A.* About six weeks or thereabouts. I had occasion to go from home when my new coat was not finished, and I had an old one that I did not wish to go in, and this one was made as a pattern for the regiment, and was condemned by the Colonel. I told the master tailor I would give a full suit for this coat.

*Q.* Did you ever get the new coat since?

*A.* No, nor never will.

*Q.* Where is your regiment now?

*A.* In Fermoy camp.

*Q.* How long?

*A.* Since the sixteenth of June or July last.

*Q.* Where have you been since the month of May?

*A.* In Dublin.

*Q.* What were you doing there?

*A.* If you will give me time, I will answer you.

*Q.* You seem not to be so flippant now, as when you were at first examined?

*A.* Because you are more sharp on me than the other gentleman was.

*Q.* Well, what brought you there?

*A.* I was sent there in the mail coach for fear I

would be murdered, when they found I was a rotten member.

Q. Who went with ?

A. Serjeant Hamilton.

Q. You travelled infide ?

A. Yes, sir.

Q. Lived well on the road ?

A. As well as we could.

Q. When you came to Dublin, where did you go to ?

A. To Lodgings.

Q. Where was it ?

A. At one Mc. David's in Bridge Foot-street.

Q. How long did you remain in Dublin ?

A. I cannot recollect ; I did not take down the dates of the months or days. I believe six or seven weeks.

Q. Until the regiment would leave Cork, you were public ?

A. I was with my brother United Irishmen.

Q. Were you one ?

A. I was not, though they thought me so.

Q. Then you were an Irishman as well as a soldier in disguise ?

A. Just so.

Q. You had that sword there ?

A. It was there I took it from the United-Irishman that was going to strike me.

Q. When you left Dublin, where did you come to ?

A. To Fermoy.

Q. How long did you remain there ?

A. I do not know how long, I was there from the time I came for a fortnight that I was out of it.

Q. Where was you during the fortnight ?

A. I was down in Roscommon to see an old acquaintance.

Q. It was to avoid being murdered ?

A. It was not.

Q. Why did you not go to Roscommon at first?

A. Because I heard it was as bad as this place.

Q. What was your reason, on your oath, of going to Dublin?

A. I had no notion of going to Roscommon.

Q. On your journey to Dublin, did you do a job for yourself. Did you prosecute any man?

A. No.

Q. Did you swear against any man?

A. Did I give information against any man? I did.

Q. Where did you get that breeches?

A. I bought it.

Q. When did you buy them?

A. I bought a pair which I swapp'd for these which is the same, they were bought from Downes.

Q. Then you did not get them from the regiment?

A. No.

Q. Out of your own pocket?

A. Yes

Q. That is not the regimental breeches?

A. Any breeches that are white, will pass parade.

Q. Is that the kind of breeches given to the soldiers?

A. No it is not.

Q. Is it not doe?

A. I do not know.

Q. Is it buck?

A. I do not know.

Q. Do you swear that when you bought them, you did not know whether it was doe or buck-skin you were buying?

A. I bought it as it was.

Q. Who did you prosecute in Dublin?

A. No-body.

Q. Who did you swear against in Dublin?

*A.* I am not to tell you, and I will not.

The witness was desired by the *Court* to answer the question.

*A.* Against Patrick Madden and John Castles.

*Q.* How soon after you came to Dublin, did you swear against Madden ?

*A.* I do not recollect the time.

*Q.* Was it two days after ?

*A.* It was a short time.

*Q.* Was it two days ?

*A.* I do not know.

*Q.* Four ?

*A.* I am not certain.

*Q.* A week ?

*A.* I believe it was eight or ten days, I am not positive, I cannot recollect it.

*Q.* By virtue of your oath, did you not swear against any man in Dublin ?

*A.* No.

*Q.* You were often brought before a magistrate ?

*A.* Not before this business began.

*Q.* I mean when you swore in Dublin ?

*A.* Not often.

*Q.* How did you come from Dublin to Fermoy ?

*A.* I walked it.

*Q.* How to Roscommon ?

*A.* I walked it every yard—I sometimes sat on a car.

*Q.* What did you go there for ?

*A.* About Castles.

*Q.* Why about him ?

*A.* Because he was taken, and in Roscommon gaol, and it was thought he was to be tried.

*Q.* And you were to give evidence, if he was tried, and to prosecute him ?

*A.* Yes.

*Q.* Did any body go with you ?

*A.* Yes.

Q. Who?

A. Serjeant Hamilton.

Q. Why was Hamilton sent with you, did you not know the way?

A. I did very well.

Q. And why was he sent with you?

A. Because he was the man that was appointed Treasurer.

Q. And was that the reason he was sent?

A. It was, because he was under the same predicament, as we might be poisoned here in a drink of porter.

Q. Were you not in uniform?

A. No.

Q. Did you go there to try your hand and get a job?

A. It was not, by virtue of my oath, I had no intention of doing what you say, nor no notion of it.

Q. How did you first come acquainted with Connell?

A. Who.

Q. The first you mentioned?

A. I was acquainted with him a long time.

Q. What is he?

A. A cotton printer.

Q. Where did you know him in Cork, was it since you came to Cork?

A. It was.

Q. How did you come to know him?

A. Just as I would any other man, when they come to a town.

Q. Where did you meet him?

A. I do not know, some where in Cork?

Q. Tell now your first cause of acquaintance with him?

A. I do not know indeed. He shewed me a book, and asked me if I knew any thing about it, but I told him it was a book I did not like.

Q. What book was it ?

A. Pain's Rights of Man. He said there was some business I would like ; I knew him for eight months before this.

Q. Was it on the Parade ?

A. No.

Q. Was it in a house ?

A. I cannot tell ; I don't doubt but it might be in the street.

Q. What house did you frequent after you were acquainted ?

A. I cannot tell.

Q. Mention any house in Cork you frequented ?

A. Is there no acquaintance without frequenting a house ?

Q. Do you believe that an answer to my question ?

A. I do not know ; what is the question ?

Q. Where did he produce the book ?

A. In Glasheen.

Q. In Cork ?

A. Yes.

Q. You came out to him ?

A. It was common for the soldiers to go out to look at the works.

Q. How many were in the shop ?

A. There was no body at work that evening.

Q. He was alone ?

A. No he was not.

Q. How many were there ?

A. I do not know.

Q. Were there three ?

A. I don't know.

Q. Were there two ?

A. To be sure there were, for he and I were there.

Q. You came by accident ?

A. It might be so.

Q. Was it the case ?

A. I believe it was. I used to hear many people talk of the curiosity of the works, he was reading the

book, and I asked him what it was, and he said it was a Republican book.

Q. Was it such a book as that (*a small one shewn to him.*)

A. No, it was half as large with an old broken cover.

Q. Was it bound ?

A. It was formerly, but it was broken.

Q. Then what did he say ?

A. He asked me if I knew any thing about that.

I told him I heard it was a Republican book, and had never seen it before, and told him he should not shew it to me.

Q. You did not pass for a United Irishman ?

A. No, I could not do it, for I knew nothing ~~about~~ it then.

Q. But you were acquainted with him ?

A. I was, but it was a long time before.

Q. Were you ever sworn ?

A. I was.

Q. How soon after you saw this book ?

A. A long time after, I cannot say what time it happened, this was in Spring, and this business came on in May.

Q. Was it a month after you arrived ?

A. It was more than a month.

Q. How soon did you meet him after you condemned the book ?

A. I met him several times.

Q. Where ?

A. Sometimes in the street.

Q. When you met him out of the street, where did you meet him ?

A. I met him at Ned Jordan's, but not on any business of that kind.

A. On what business ?

A. On business that I won't tell you.—It was at a Freemason's lodge, as I must say it.

Q. He introduced you to the society ?

A. Yes.

Q. That met in Fishamble-lane.

A. Yes he did.

Q. Where did you get the Constitution Books before you were acquainted with Connell ?

A. It was impossible to have got one before a man was sworn.

Q. Were they not common ?

A. They were among United Irishmen, I never saw them with any one else.

Q. Who were present when you were sworn ?

A. Only the man that swore.

Q. Only Connell ?

A. Only Connell.

Q. You were sworn out of a book ?

A. Yes.

Q. Did you read the oath ?

A. I repeated it after him.

Q. In whose house ?

A. Carroll's I believe.

Q. Were you after meeting ?

A. Yes.

Q. Was it in the morning ?

A. Yes it was ?

Q. What time ?

A. I do not recollect.

Q. Was it before or after breakfast ?

A. It was after breakfast with me.

Q. You called on him, I suppose ; where did you meet him ?

A. In the street.

Q. Where in the street ?

A. At the end of Hammond's-marsh, walking by himself, I believe he was looking for me.

Q. You lived in the barracks, and you met him near Hammond's-marsh ?

A. I promised to meet him.

Q. Was it the night before you promised to meet him ?

A. Yes it was. He brought me to the house, and said if I did not wish to be sworn before so many, I could go into another room.

Q. This was on Sunday night ?

A. Yes.

Q. And you were sworn on the Monday ?

A. Yes it was so.

Q. In what room were you sworn ?

A. In a small room in Carrol's house.

Q. Are there not other houses ?

A. There are, but that was the house appointed.

Q. Is that your hat, is it a soldier's hat, is it a serjeant's hat ?

A. It is a Serjeant's.

Q. How did you get it ?

A. I borrowed it.

Q. You lent your own ?

A. No.

Q. Which of the serjeants lent it to you ?

A. Do you know serjeant Cowen ? if you do, that was the man.

Q. How long have you worn it ?

A. Since I came to Cork.

Q. Did you not want to pass on the Jury as an officer and fine gentleman ?

A. No, I did not.

Q. Did he pull the book out of his pocket ?

A. He did.

Q. Where is that book ?

A. This is it [the book he had before identified.]

Q. Out of which pocket ?

A. I do not know.

Q. Was it the waistcoat ?

A. I believe it was his coat pocket, because he only came out of the other room to that one.

Q. Will you tell me with whose ink did you write that name, was it with Carrol's ?

*A.* No it was not.

*Q.* Whose was it ?

*A.* I put the book in my pocket. It was with Captain French's ink, when he wanted me to give him the book, and I would not, till I had wrote my name on it.

*Q.* What did you do after you took the oath, did you walk off getting your lesson ?

*A.* I did.

*Q.* How long ago ?

*A.* Not very long. He shewed me signs and words.

*Q.* What signs.

*A.* I will shew you [the witness put his right hand into his bosom] that sign to be answered, by putting the hands across, and the word go on, part, and some other words.

*Q.* Did you repeat it often after before him ?

*A.* It was repeated before the whole of them, it was necessary they should all know it.

*Q.* Did you depart ?

*A.* I did not stay long, we were to meet again in the evening.

*Q.* Did you meet in the evening ?

*A.* Yes, on Monday evening.

*Q.* Who did you meet there that evening ?

*A.* I cannot recollect well. A good many that I did not know at all.

*Q.* Tell as many as you can recollect ?

*A.* HANNA.

*Q.* A soldier ?

*A.* Yes.

*Q.* You brought him there ?

*A.* No, he was invited to the Society the same as I was.

*Q.* Who invited him ?

*A.* The Society that was there on the Monday morning, Hanna was sworn.

Q. Did you see him sworn ?

A. I did.

Q. On this book ?

A. Yes.

Q. When was it, before or after ?

A. I do not know which rightly.

Q. You are on your oath, Sir, before your God and the Court and Jury, who are all watching you, by the use of that oath was it before, or after you were sworn ?

A. It was after, that he was sworn by Connell.

Q. Was it in the same room that you were sworn in ?

A. I believe it was.

Q. Are you not sure it was the same room ?

A. I believe it was the same room, it was for that purpose.

Q. Did he take this book from you to shew it to Hamilton ?

A. Yes.

Q. In how many minutes after, was it half an hour ?

A. It was not.

Q. Had you any drink ?

A. Very little, some porter.

Q. He pointed out the oath ?

A. He did, and Hamilton read it.

Q. Shew me the oath ?

A. It is in page five.

Q. Were those two pins in the book, when you were sworn upon it ?

A. Yes, and filled with this writing. I remark'd it.

Q. Are you positive ?

A. They were there, I am sure, I took it out of his hand after, and asked him what was the reason of it, and he told me it was filling it.

Q. Then I suppose you and Hamilton went off, or did you drink any thing ?

A. We did, for my part it was very little I took.

Q. When you first came in did you call for any thing ?

A. No, when we first came in, I don't recollect it was in the inside room, we went into a private room.

Q. Was Hamilton in uniform ?

A. I don't recollect.

Q. When you were reading the oath, did you read it to yourself, or so loud as for Hamilton to hear you ?

A. How could Hamilton hear me and he in the next room.

Q. Did you now say, that Hamilton and you came into the house together ?

A. Yes, but not into the room together.

Q. Where did you meet him, what time ?

A. When I was going to swear, he was in a room behind me, in the street room.

Q. Where did you meet him in the morning ?

A. He lived next room to me in the barracks ?

Q. Did you call for him ?

A. No, for he was there the night before.

Q. When did you meet ?

A. In the barrack-yard, I believe.

Q. Don't you know for certain the place ?

A. I might, but I do not recollect it.

Q. Did you go look for him ?

A. No.

Q. Which did you meet Hamilton or Connell first ?

A. I told you before, I did not recollect.

Q. When you met him first, where did you go to ?

A. We went walking towards Hammond's-marsh.

Q. And met Connell, is that it ?

A. It is.

Q. Did you go alone ?

A. No.

Q. Did Hamilton go with you; it was on Monday?

A. Yes it was, before twelve o'clock.

Q. Did you come on the Monday evening?

A. Yes.

Q. You were acquainted with Dry?

A. No, any more than hearing talk of him, it was in the evening I was introduced to him.

Q. Was it before you met in the evening, and after you were sworn, that you put your name on that book?

A. It was before I parted it out of my possession, if you look at the book, you will see it is folded in four in the very manner I put it into my pocket, and no man touched it till I put my name on it.

Q. Was it after Hamilton was sworn?

A. It was.

Court. Was it in the morning or evening.—A. in the morning.—Q. You kept the book—A. I did.

Q. You said the whole happened from the eighth to the twenty-first?

A. I did.

Q. Sunday was the eighth?

A. I believe Monday, (this was corroborated by an almanack.)

Q. At the time you had the conversation about the Three-pence a week, did you subscribe?

A. No, I did not.

Q. Was the conversation of taking off the embargo in the evening?

A. It was on the same evening, there was no meetings, except after eight o'clock in the evening.

Q. Was it on Monday you began to ballot for the secretary?

A. No.

Q. Was it on Tuesday evening Dry drew the names of the Members out of the hat.

*A.* I cannot tell what certain day.

*Q.* Was it three or four days after you were sworn?

*A.* Is it fair to look at what I have taken down.

*Q.* Very fair, when did you take the memorandums down?

Witness took two or three pieces of paper out of his pocket.

*A.* It was on the 17th of May last.

*Q.* Is that your own hand writing?

*A.* Yes it is.

*Q.* Shew it to me, I appeal to the court, if I have not a right to get it, as it is produced.

Mr. DAY objected against the paper being handed to the prisoner's Counsel.

*Court.* Is there any thing but those memorandums on that paper?

*A.* I believe not, there is not.

Mr. GRADY, shew it to the Court and not to me.

*Court.* If there is any thing on it, but what he has mentioned, it ought not to be read?

*The paper was handed to the Court.*

*Q.* You have some other papers in your hand, do they relate to Dry and the United Irishmen?

*A.* Yes, some of them do.

*Q.* Did you not refresh your recollection with one of the others?

*A.* Not one, I did not read a word but look'd for the date.

*Q.* What objection have you to produce the paper you lately produced.

Mr. EGAN objected to the question, and submitted the law to be, that where a paper is produced, you have a right to see it, but you have only a right to see that part which respects the transaction.

*The paper produced to the Court,*

Q. You swear that this is the paper you wrote on the seventeenth of May?

A. Yes.

Q. Did you go from the meeting?

A. I left it at night.

Q. Was it that night, or the next morning, that you wrote this?

A. I wrote it the next day. If any thing passed any night I wrote it the next day, to refresh my memory.

Q. This was the night Dry had the ballot?

A. Yes, I believe it was.

The prisoner's Counsel had got the paper which had been handed to the court—it was objected on the part of the Crown by Mr. EGAN, that if the witness was to be examined with respect to the Paper produced, he had a right to have it in his hands to refresh his memory.

*The paper was handed to the Witness.*

Q. Look at the seventeenth day of the month in that paper, was that the night that Dry mentioned that the embargo was laid on the French ports, and that it was no matter whether the French landed or not.

A. No it was not.

Q. Was it after or before?

A. Before, I think.

Q. Was it not before?

A. I told you before. I would not mention for any dates, but what was particular on my memory.

Court—Can you take upon you to say whether it was or not?

A. I cannot.

Q. Was it after Monday, or on Monday evening?

A. I don't know.

Q. Was it three days after. Did you not say that the transaction of every night you committed to paper?

A. I did and have it as of that night.

Court—Have you about you those papers relative to that transaction?

A. I have some of them. I will not look at them any more.

Q. Did you not tell this day, that every day you took a memorandum of the preceding evening?

A. I took notes, so as to recollect, but to say I took the transaction, I did not.

Q. Why did you mark the seventeenth of May on the paper?

A. Because it was the night the society was divided and ballotted for.

Q. Was that the night the Constitution Books were produced?

A. It was I believe, and that was the night he ordered the man to go for the books and give them to me.

Q. And did he give them to you?

A. Yes.

Q. When you went to Rosemount to your friend, were there not many United Irishmen?

A. I heard so: I did not know.

Q. Were not these books common there?

A. I do not know.

Q. Did you not swear against Madden for taking the oath?

A. I did.

Q. Did he produce a book?

A. No, he had it so well that he repeated it.

Q. Did you not swear he produced one of those books?

A. He produced a prayer book.

Q. And you did not swear that before a Magistrate in Dublin?

A. I saw nothing of it?

Q. Had you ever any other one in your possession?

A. I had when I got them at the Society.

Q. Where are they now?

A. I gave them up.

Q. To whom?

A. To Captain French.

Q. Did you not swear that was one of the books that Dry gave you (*the book already identified*)?

A. I swore it was the book I was sworn on.

Q. Were you ever brought before Mr. Dark to be examined?

A. Yes.

Q. When?

A. I don't know what day.

Q. Was it a week ago?

A. It was since last Monday eight days.

Q. Is your officer in town, Mr. French?

A. I do not know whether he is or not. I believe not.

*Court.* — What did he say about this book?

Q. Was that the night Dry gave you that book (*the one produced*)?

A. No it was not, but it is the same of that book.

Q. Did you not identify this book this day, as the book you got from Dry on that night?

A. No, I did not.

Q. Did you put your name on any of the books you got on the seventeenth of May?

A. No I did not.

Q. Did Mr. French keep this book from you?

A. No, he gave it back to me, for if I had it not, I might be suspected of betraying them.

*Court.* — You say the seventeenth of May was not the day you got the book?

A. No, it was not, I got it the day I was sworn on it.

Q. You say, you gave that book to Mr. French?

A. Yes.

Q. In how many days after did he return it to you?

**A.** The day after.

**Q.** Did you not swear that from the time you got it, you never parted it out of your possession?

**A.** Not till I had put my name to it.

**Q.** Did you take a memorandum of the seventeenth of May of these books being produced?

**A.** I did not take a memorandum of every transaction.

**Q.** Did you not consider the producing these books as a material transaction?

**A.** Suppose I did, it was so material that I could not forfeit it.

**Q.** The Prisoner then was not present when you got this book from CONNELL?

**A.** No.

**Q.** Was it not more essential to put your name upon the books you got from DR Y than on that you got from CONNELL?

**A.** I did not understand the law.

**Q.** Do you intend to prosecute CONNELL?

**A.** I intend to tell the truth, as I will when I am called upon.

**Q.** Who was present when you took down those notes?

**A.** No one was present when I took that down, but I took others down that some person might be present at.

**Q.** Tell me how many were present on the night of the sixteenth?

**A.** I will tell you as many as I know: CONNELL, ATKINS and EATON.

**Q.** Who is ATKINS?

**A.** A Hair-dresser.

**Q.** Was NIXON by?

**A.** I believe he was not in the room when I got them, but his name was mentioned: I believe EATON was there, I don't say positively.

**Q.** Did you go more than once to your Officer with books?

A. Certainly I did.

Q. You swear that?

A. Yes.

Q. Do you recollect the night DR Y was arrested?

A. I do.

Q. And going to CONNELL's house the night after, did you go by virtue of your oath?

A. I did.

Q. Had you any conversation with his Wife?

A. Very little, she wanted to know if her Husband was taken; I told her I knew nothing about it.

Q. Did you desire her to bid her Husband go out of the way?

A. I desired her to send him to speak to me.

Q. Did you tell her DR Y was arrested?

A. I need not, for she knew it before.

Q. You were intimate in the family?

A. No, I was not, how could I?

Q. Was he not intimate with you?

A. He was.

Q. Were you not often at his house?

A. I was once.

Q. Did you not swear you were at the work-shop?

A. That was not his house.

Q. What did you go to his house for, was it not for him to go out of the way?

A. No.

Q. What else?

A. To put him along with the rest, if you want to know.

A. Did you ever endeavour to arrest him?

A. I did, and took him.

Q. Where?

A. In Dublin.

Q. When?

A. When I was there, and put him on the *Pré-vot.*

Q. Since you left Cork?

A. Yes.

Q. Where is he now?

A. I don't know.

Q. What did you do with him?

A. I don't know what **LO R D C A R H A M P T O N** did with him, I suppose he put him on board.

Q. Do you know a person of the name of **M C F A R L A N D**?

A. I do.

Q. Where did you get acquainted with him?

A. I lived within two or three doors of him.

Q. Did you ever send him of any message to the prison?

A. He came to talk of *Nixon*, and said he was an honest loyal fellow, and said he would suffer to be hanged before he would flinch, I told him it was in his own power to do it, if he thought proper, and he went to him, and when he came back, he told me Nixon wanted to see me, and to go to the goal in coloured clothes, and I said I would not.

Q. Did you ever tell him to swear against Dry, and he should be rewarded?

A. I did not, but that if he would be honest, and tell what he knew, if any thing could be done, it would, he said he knew many things, and was the only man that could make discoveries, and that he would.

Q. Were you settling about the reward then?

A. No.

Q. Do you know a man of the name of *Wood*?

A. I do.

Q. Was he by?

A. It was he that brought me there.

*Court*—Where?

A. To the Gaol.

Q. Was *Nixon* brought out of the gaol in order to be examined before you ?

A. He was brought out of the goal.

Q. Where was he brought to ?

A. I suppose to the Mayor.

Q. Did you desire *Wood* to make him an offer, if he would swear against *Dry* ?

A. I did not.

Q. Did you desire *M'Earland* in the presence of *Wood* ?

A. I said if he would be honest, and tell what he knew, that if any thing could be done for him it would.

Q. Did you tell him to swear against *Dry* ?

A. Against every body ?

Q. Did you mention *Dry* ?

A. I desired him to swear against nobody, but to tell the truth.

Q. Did you mention *Dry* ?

A. I don't doubt but I did.

Q. Did you since the beginning of the assizes ?

A. That was since the assizes.

Q. Were you at the Mayor's when *Nixon* was examined ?

A. I was there, but I did not hear much of his examination.

Q. Did you hear the examination with respect to *Dry* ?

A. I do not recollect what passed, there were others there, that do recollect what passed.

Q. Did you see Mr. DALY, an attorney, there ?

A. I do not know him.

Q. Taking informations ?

A. I did not.

Q. Did you not hear that they were taking examinations as from *Nixon* against *Dry*, for tendering oaths, and that *Nixon* could not swear it ?

A. I did not hear it nor see it.

Q. Did you not hear it?

A. Never, that they were taking down any thing.

Q. Did you ever say to any other person that if he would assist you in the conviction of DR Y, that he would be made a Gentleman of?

A. No, but that he would serve himself, as he was one of his earliest acquaintances, and in his se-crets; that it would do him good, and he would not have evidence brought against himself.

Q. If you thought your evidence alone would have been sufficient to convict DR Y, would you have applied to NIXON?

A. I would do all in my power to serve NIXON; I would inform against any man that would conspire against his Majesty.

*Court.* Is NIXON a Soldier.—A. No he is not.

Q. What business does he follow?

A. A Hair-dresser.

Q. How long did you know him?

A. Since I came to Cork.

Q. Do you know him as long as you do CON-  
NELL?

A. I believe much about the same time.

Q. Did you ever tell him that if he refused to give evidence, and swear against DR Y, that you and the other Serjeant would be either hanged, or flogged, or shot?

A. No I never did, for it was with the consent of my Officers.

Q. Was it with their consent you wear a lace-hat?

A. I don't believe they know any thing of it.

CHARLES CALLANAN, *the second Witness for the Prosecution, examined by Mr. STANDISH O'GRADY.*

Q. Where do you live?

*A.* In Blackmoor-lane.

*Q.* In the City of Cork?

*A.* Yes.

*Q.* By the Prisoner's Counsel.—Were you in Court?

*A.* Yes.

*Q.* Did you hear the evidence given by the first Witness?

*A.* I did some of it.

Mr. O'GRADY for Prisoner.—I trust your Lordship will not suffer him to be examined.

*Court.* I cannot object to his being examined, you may make what use you choose of it.

*Q.* Were you desired to leave the Court?

*A.* I was desired to leave the Court; I was desired to go up to that room; I did not like the company that was there; I eat my breakfast since I was here.

*Q.* Do you come forward a willing Witness?

*A.* I do.

*Q.* What business are you?

*A.* I work at the Brafs-work; by virtue of my oath I never thought I would come here on this occasion.

*Q.* You come from your own good will?

*A.* Indeed, Sir, I did.

*Q.* Did you meet any person on Tuesday, the sixteenth of May last, about four o'clock?

*A.* I do not know the day of the month, but I met a man of the name of BARRY.

*Court.*—*Q.* Can you tell it was in the month of May?—*A.* I believe so, as it is in the information; when I found the company I was in, I did not like to be with them.

*Q.* Did he say any thing to you?

Mr. GRADY for Prisoner.—*Q.* Was the Prisoner present when you had the conversation?

*A.* Indeed, Sir, he was not.

*Q.* What did he say?

A. Was I up; I told him I was up to several things: he said if I would treat him he would put me up to several; he met several people in the street and asked them if they were up, and they laughed at him: we went to Nixon's house.

Q. When you went into this house did you meet any one?

A. Yes; we went in, and each asked for a pint of Porter; there were three or four there.

Q. Do you know the name of any of them?

A. I heard the name of one of them was FISHER.

Q. Did you meet the man you thought to be man of the house?

A. To the best of my recollection he was not there.

Q. Do you recollect swearing informations on this subject?

A. I do.

Q. Was what you swore at that time true?

A. I believe it was.

Q. Did you meet the man of the house?

A. When?

Q. When you went there that night did you or did you not meet him?

A. The next night I did, not that night.

Q. Who else did you meet the next night?

Court.—Q. Did you meet FISHER the next night?—A. Yes, my Lord, in the morning FISHER came to me and gave me some signs.

Q. I want to know what other persons were present on that night?

A. There was a Boy, an apprentice to a Clock-maker, and ATKINS was there.

Q. Was there a person who followed the trade of a Brass-Founder?

A. There was, he worked journey-work.

Q. What was his name?

A. EDWARD KENAN,

Q. Did you see any person with a black patch between his eyes ?

A. Yes.

Q. Was he there the first, or second, or both nights ?

A. He was there both.

Q. Were you previously acquainted with him ?

A. I never saw him before, to the best of my recollection.

Q. Was there any conversation ?

A. Yes there was.

Q. In the course of the conversation what did they call the man with the patch between his eyes.

A. ALDERMAN SHAW told me his name was DR Y, by the description.

Q. How long were you in company with him ?

A. About ten minutes.

Court. Was that the first or second night ?

A. The first.

Q. Were you with him any other night but these two ?

A. No I was not, I have seen him since, but he had no patch on his face.

Court.—Q. Did you say how long you were with him the second night ?—A. About three quarters of an hour: while I paid for two pots of porter, I saw a man, but I did not know whether he was the man or no—I saw a man by the name of DR Y, but I do not know whether he is DR Y or not.

Q. Look at the Bar, you are on your Oath—by virtue of your Oath did you ever see him before ?

A. Last Sunday night, in the Gaol.

Q. Who was the company in Gaol ?

A. I met a Cousin of mine, and went up with him ?

Q. Was it you or your friend that proposed to go into the Gaol ?

A. My friend.

Q. What is his name ?

A. **Jos. ANDREWS**, my Sister's brother-in-law.

Q. Did you see **DRY** there?

A. Indeed I do not know; when I went, there was another man speaking that I thought was him, but when this man was introduced to me, I thought he was like the man I had met before.

Q. What conversation had you and **DRY** on Sunday night?

A. I had no great conversation with him, God knows I had not—there was a black-looking man, and I was full sure it was him—when I saw him, I thought I saw him before.

Q. What conversation had you?

A. No great—

Q. Had you any?

A. A very few words: he asked me to drink to him, and I did—there were three or four women there.

Q. What was the conversation, as near as you can recollect?

A. God knows I do not rightly recollect.

Q. What conversation had your Brother-in-Law?

A. I did not hear any conversation.

Q. He might have some?

A. I was not there ten minutes.

Q. Did you leave your friend behind you?

A. No; we came away together, and I went with him to his house; he had desired his Wife to have a snack for us, and if we had staid too long it would be too late for supper.

Q. Did any person tender a book to you to swear?

A. There was.

Q. Tell who he was?

A. The man that wore the black patch was the first.

*Court.*—Q. Where?

A. At **NIXON**'s, on the Tuesday evening.

Q. When he tendered the book to you what did he say?

A. I cannot recollect all.

Q. Nearly?

A. I do not.

Q. When he handed the book to you what did he say?

A. It was something about forming a brotherhood of Irishmen of every religious persuasion.

Q. Was that what he wanted you to swear?

A. Indeed it was.

Q. Do you recollect any other words?

A. I do not.

Q. When you were swearing informations did you recollect any other words?

A. I believe not.

Q. Did any person explain the oath to your satisfaction?

A. Another man offered it to me, and I said I would not take it unless it was explained to me, and BARRY said I will take it before you, if you think there is any harm in it: I did not think there was any harm in it, or else I would not have gone in there.

Q. Did you take the oath?

A. I did at last.

Court.—Q. Did BARRY take it?—A. I can't recollect he did.

Q. Were there any signs shewed to you?

A. There were next morning; I believe they were shewn to me that night but I forgot them: it was early in the evening, between four and five o'clock.

Q. What was the meaning of shewing the signs to you, did they tell you?

A. That I might know every one that would be

up.

Q. What was the meaning of being up?

A. God knows.

Q. You tell me you do not know ?

A. By virtue of my oath I do not ; I know several things that I am up to, but not what is the meaning of the oath.

Q. When you discovered a man was up, what were you to do ?

A. When I wanted to know from them, they told me I must find it out by my own learning. Next morning FISHER came to me and shewed me the signs, and asked me if I would go to a funeral ; I asked him if it was a real one ; he told me his Brother was dead.

Q. What made you ask him if it was a real funeral ?

A. Because I heard there was a coffin filled with stones to be buried : that was on Wednesday morning, the seventeenth : it was on Tuesday evening I was there first.

Q. On the evening of that day there was another meeting at a house in Fishamble-lane ?

A. There was no regular meeting on Tuesday, but on Wednesday there was.

Q. Tell as well as you can how many persons were there ?

A. There were from fourteen to eighteen, I am no great judge.

Q. Was the man with the black patch one of them ?

A. He was.

Q. Had he the patch that evening ?

A. He had.

Q. Did any person act as Secretary ?

A. There was one person wrote down our names.

Q. Who was he ?

A. The man with the black patch, to divide the Society and put them into a hat, and draw them out, and one-half of the Society was to stay at the house, and the other to go to another house, and one of the men presently moved, that it might be at his house.

*Court.*—Q. The names were on several pieces of paper?

A. Yes.

Q. Did you by this time find out whose house this was?

A. I heard it belonged to one C A R R O L ; it appeared to be N I X O N ' s , because he brought up the Porter.

Q. What house were the other half to go to?

A. To a house in Pig-street, and there a Member humbly moved, that he had a very good room of his own.

Q. Was that carried, that is was the majority for it?

A. Yes, Sir.

Q. Was there any Member that had a patch between his eyes, but the one?

A. I cannot tell. I took particular notice of him, because he read a news-paper.

Q. Do you know whose paper it was?

A. I believe it to be D R I S C O L L ' s paper, that was the last time I went: I met the man with the patch afterwards, and I told him I would go no more among them, and he told me it was totally different from what I thought it.

Q. Had he the patch on?

A. I believe he had.

Q. Have you taken any steps to prevent your being implicated?

A. I fung a fong ; there were three or four Soldiers there and Apprentice-boys, and people that I did not know.

Q. Was the oath that was delivered to you read to you, or in what manner: was it out of a book or a news-paper?

A. It was out of a book.

Q. Was it much about the size of the book on the table?

A. There is no great difference.

Q. How long since you first saw the Prisoner at the bar?

A. Since I first went to that place, I cannot tell how long.

Q. Do you mean that Tuesday was the first time you had ever seen D R Y ?

A. He had a patch on his eye then; I had not the least recollection of him, 'till something struck me when I went to the Gaol.

Q. When you saw him without the patch did that make any alteration in him?

A. It would.

Q. What size patch was it?

A. I cannot tell.

Q. Was it the size of a Crown?

A. I cannot tell. I believe it was something less than Half-a-Crown; I was a little hearty when I saw him; it was between Half-a-Crown and a Shilling.

Q. Did it cover the whole spot.

A. God knows if I recollect.

Court.—Q. Did you see them read the news-paper?

A. I did, but I was so hearty that there was a glass on the table and I began to eat it.

The Witness to corroborate what he had said with respect to the glass, offered to eat an ink-bottle then on the table, and had actually devoured it but for the interposing hand of Mr. JONES, which rushed between it and destruction.

*Cross-examined by Mr. JOHN SHEARES.*

Q. On what evening did you meet BARRY?

A. On Tuesday evening, between four and five o'clock.

Q. Were you acquainted with him before?

A. I was very intimately.

Q. He accosted you in a friendly manner?

A. He asked me if I was up, and I asked him

what it was, and he said if I would treat him he would tell me.

Q. You say he asked the people as they were going by, if they were up, and that they laughed at him.

A. Yes, and Mr. SCRAGGS, who was passing by, laughed at him.

Q. Does a little liquor affect you?

A. The least thing in life would alter me; there was one evening a Soldier drowning, and though I had taken but two glasses of Cider, I leapt over the quay and saved him, and another time a Child that I saved.

Q. Did you take two pots of Porter with BARRY?

A. I did, but not in this house.

Q. You were hearty?

A. Not to say hearty, I would not wish to drink to get hearty.

Q. When you went to this meeting were you not hearty?

A. I was.

Q. You said you did not recollect what passed?

A. No, nor I did not; when I was with ALDERMAN SHAW, he asked me if I would wish to be taken by an Officer, or a guard of Soldiers: I said I would not wish to be taken.

Q. It was before ALDERMAN SHAW you gave the informations?

A. It was.

Q. Had you any conversation with Mr. FREDERICK CLARKE?

A. He told me my Brother-in-Law would be broke of his Commission, if I did not come forward.

Q. Did he mention any thing of DRY?

A. No.

Court.—Q. Who told you your Brother-in-Law would be broke?

A. Mr. Clarke. I took a walk into town and saw

two Serjeants in the Guard-house, and I asked them what brought them there, and they said they were taken up the night before: I had seen them before.

Q. Pray, Sir, where had you seen them?

A. At N I X O N ' s house: one of the men that was on the table was in the Guard-house with them, and I believe one was a Corporal and the other a Serjeant.

Court.—Q. When was it you saw the men in the Guard-house?

A. On the Monday.

Q. What Monday?

A. The Monday after the Sunday that these people were taken up at N I X O N ' s house. I know one of them very well, by seeing him in the street: I said to them, thank God, I will not have any thing to do with your busness; if I was there last night I would have been taken up too.

Q. You saw the Witness on the table; was he one of them?

A. I am not certain, but I know the other.

Q. What is his name?

A. HAMILTON.

Q. When had you conversation with ALDERMAN SHAW in his parlour?

A. I had a conversation with him.

Q. Did he tell you you would suffer, if you did not give evidence?

A. I don't think he did, but he mentioned I would be hanged if I did not come forward.

Court.—Q. Who mentioned that?—A. Mr. F r e d e r i c k C l a r k e .

Q. What is your Brother-in-Law?

A. A Captain in the Eighty-fourth regiment, by his own merit and Sir William Clarke's interest.

Q. When you were taken before Alderman Shaw, were you afraid?

A. I was.

Q. He read the oath to you?

A. Yes, but I did not think it was the oath, I could recollect some words of it.

Q. But you could not say on your oath that it was the one you had been sworn to?

A. I could never think of it.

Court.—Q. When the Alderman read the oath to you, what did you say?—A. I said I believed it was it. Mr. Barry sent for me and I went, and saw the two Serjeants at breakfast.

Q. Did they seem comfortable?

A. They had tea and a cold roast shoulder of mutton?

Q. What conversation had you?

A. They asked me if I recollect the oath; I said I could some of it; and the man that was here a while ago had every word of it by heart.

Q. Did he mention any thing to you about swearing against the Prisoner, *Dry*?

A. He said it would be to my interest, and the honour of my King and Country; and I said I would swear nothing but what was right. He was putting me in recollection of that night, and asked me whether there was any money gathered; I told him I did not see it, and he said I could not, for that I was not there.

Court.—Q. What did he say about King and Country?—A. That it would get great credit for me in the City of Cork, and for the honour of my King and Country.

Q. You swear when you first saw *Dry*, after the transaction you have related, you did not recollect him?

A. I do.

Q. Could you now positively swear that that was the man that gave you the books?

A. Indeed I could not, but he resembled him.

Q. Did you not take another person in the Gaol for him?

A. I thought he was the person.

Q. How many were there at the meeting on Wednesday?

A. From fourteen to eighteen.

Q. Were there many persons you did not know?

A. There were.

Q. Might there not be another person with a patch on his face, without your knowing it?

A. There might, for I sat on the bed and was very hearty.

Q. You said there were three swearing you?

A. There was another tall man wanting to swear me, but I would not take the oath.

Q. While they were tendering the oath was there not somebody writing down the names of the meeting?

A. God knows I do not know.

Q. When you refused to take the oath without having it explained, what was said to you?

A. He said that I should find it out by my own learning, and that to-morrow night would be the time.

Q. When you refused to take the oath, it was *Barry* offered to take it?

A. It was.

Q. And in consequence of that you took it?

A. It was.

Q. You would not have taken it if *Barry* had not offered to take it first?

A. I would not.

*Jury*.—Q. What led you to recollect him?

A. I brushed up against him and he had the same patch on.

Q. If you met any other person with a patch would you take him for him?

A. If he was any way like him.

Q. Did you address yourself to him, or he to you first?

A. I believe it was he addressed me first: I told him I would go no more, and so I did not.

Court.—Q. Who drew the names out of the hat?

—A. I do not know.

Q. Was it the man with the black patch?

A. I can't tell that.

Q. Was it he tendered you the oath?

A. It was, and I would not take it for him.

Q. Was it the same man that wrote the names?

A. Yes, but I can't say it was the same man that drew them out of the hat.

Q. You are sure it was he that tendered the oath to you?

A. I am, my Lord.

The evidence here closed on the part of the prosecution.

Mr. H. O'GRADY, *for the Prisoner*—Addressed the Court in an ingenious speech, and endeavoured at some length to shew that the offence charged upon the Prisoner did not fall within the Statute of the 27th of the King, and even supposing it did, that the facts as they appeared from the evidence could not sustain the indictment. He argued that the Statute on which the present indictment was grounded, was made to meet particular offences then committed in various parts of the country: that at the time of passing that act there was not such a crime, as that with which the Prisoner stands charged, either heard or known of; namely a society of men, calling themselves United Irishmen, holding private and secret meetings for the purposes laid in the indictment. The offences which that act were meant to meet, were of an open, notorious and violent nature, accompanied with force and violence, carried on by various descriptions of men, complaining of several hardships, and endeavouring to free themselves from the payment of tythes and taxes; meeting in the day time in great force, and parading with arms for doing mischief, and avoiding the payment of taxes and tythes. These were the mischiefs and public vio-

lence that tended to distract the kingdom, at the time when the Legislature found it necessary to pass a particular act, to prevent such outrages. The laws as they then stood were found insufficient to meet the offences committed by that body of men, that armed banditties parading the streets in open day, and in arms. Since the passing of that act, and before the passing that of the 36th of the King, there never was known nor heard of in this country private and secret meetings, for the purpose of forming associations destructive to the constitution, and wearing a foreign name; no such thing was ever known or suspected: the body of men whose offences the 27th of the King was meant to meet, are a body totally separate and different, from that body which are charged by the indictment, founded upon that Statute, to exist in this country at the present day.

On indictments upon the 27th of the King, the great defence set up were, that they had been forced to take the oaths for which they were indicted; that was the great defence, and questions arose on the trials whether the whole of the oath should be set out, and it was conceived that it ought, and that the oath, as spread on the indictments, ought to be literally pursued. To remedy that difficulty and render the conviction of offenders less uncertain, it was found necessary to introduce a clause to make the import of the oath sufficient. There is not in the whole act one single clause that relates to, or bears upon that act of private and secret association, not accompanied with force or violence, or in the least degree relates to that new species of offence, known to have existed for these two years past.

Mr. O'GRADY, particularly relied upon the preamble of that act, as an irresistible argument in favour of his client—to "prevent tumultuous risings."—He then argued from the clause of the act, where the Magistrate is authorised to go to

such meeting, as near as he can to them, and there read the Riot Act, in order to disperse them: that no such idea as a secret, private meeting could have entered into the contemplation of the Legislature, when they framed that act, and authorised the Magistrate to go as near as he could, and there read the Riot Act, in order to disperse such meetings. What meetings?—not secret, unknown, private meetings, but those which are expressly set out in the preamble of the act; the tumultuous and unlawful meetings, then publicly and notoriously held in the open day, in various parts of the country; manifested in different parts of the South, in Cork and in Limerick, spreading over half the country. What could have been the opinion of the Legislature, when it was thought necessary to pass the act of the 36th of the King?—Certainly that the particular crime there included, and with which the Prisoner at the bar is charged, could not be brought within the 27th of the King, save by a forced construction, and that it was a crime of that particular nature, which ought to be particularly remedied by a particular act of Parliament. Mr. O'GRADY then adverted to the oath, as laid in the indictment: he said, that in the face of the whole indictment there was not a single count charging the substance, and entire import of the oath. No one count where the import of a general oath is set out, but each count seems garbled out, to support one separate and distinct oath: but it has been garbled and divided, and an import given to each count which it cannot bear. Mr. O'GRADY then argued at great length, that the indictment as laid could not by any construction be sustained, by the evidence which had been given.

Mr. JOHN SHEARES followed Mr. O'GRADY, and said, in addition to the argument of Mr. O'Gradv, against the validity of this indictment, I wish to offer a few words on a point, wholly untouched by him.—

The present indictment is confessedly founded on the Stat. 27th Geo. 3. chap. 15, and contains six counts—the *First* for tendering an unlawful oath, the import of which is, to bind the person to whom it was tendered, to become a Member of the society of United Irishmen; the *Second*, for tendering another unlawful oath, importing to bind the same person to be true to the said Society; and the *Third*, another unlawful oath to bind the same person, “*to persevere in endeavouring to form a brotherhood of affection among Irishmen of every religious persuasion*,” meaning thereby, that he should persevere in endeavouring to prevail on Irishmen of every religious persuasion to become members of said Society.” The three remaining Counts are but repetitions of those already mentioned, and only differ from them in being laid for having *caused* to be tendered the said unlawful oaths, instead of for having actually tendered them.

As it is not even affected that a word of evidence has been offered, relative to the first or second of those recited oaths, I shall confine my observations wholly to the remaining one, and hope to shew your Lordships (if indeed any thing more than the mere recital of the oath itself be necessary) that it does not, nor could by possibility come within the purview of the statute, on which this indictment is framed.

It was stated by the Counsel for the crown, that in framing the Statute the Legislature had for object the suppression of the Societies of United Irishmen, to whom you have heard such enormities imputed. If it were so, that Legislature must have been something more than human, and highly gifted with supernatural prescience, as it is too notorious to need proof, that for some years after the enactment of that Statute, no such Society had existed.

This mistake arose, 'tis true, from confounding facts and dates, and attributing to the 27th Geo. 3, what is applicable to Stat. 36, of the same reign. From this strange confusion, however, a very material ad-

mission on the part of the Crown, may be extracted; namely, that the Oath or Test of the United Irishmen was first made illegal by a Statute, subsequent to the origin of such Society, which could not have been that on which this Indictment is founded. If the enactment of the 36th of the King were necessary to make that oath unlawful, it could not have been so before, and therefore could not have come within the purview of a prior statute made expressly against *unlawful* oaths. And, indeed, from a perusal of the preamble of Stat. 36th, Geo. 3. it will appear evident, that the Legislature were then conscious, they were about to make that unlawful, which was not so before; as in the beginning of the enacting part, where they endeavour to describe the oath, the word *unlawful* is omitted, and the expression remains, “*any Oath importing*,” &c. whereas in every subsequent part of the Statute, it is denominated “*such unlawful oath*.”

But it may be said, that the 36th of the King is but declaratory, as far as relates to the illegality of the United Irishman’s oath, which came within the description of unlawful oaths, mentioned by Stat. 27th, Geo. 3d, as binding persons to be of associations, alledged to have been formed for seditious purposes.—Be it so—I will take this supposition in its widest extent. I will suppose it true, that the United Irishman’s oath is illegal and contrary to the Stat. of 27th, Geo. 3.—I will suppose all that has been sworn by the witnesses for the prosecution to be true, and that it is now proved that the prisoner tendered an oath, importing to bind the person to whom it was tendered, to *persevere in endeavouring to form a brotherhood of affection among Irishmen of every religious persuasion*. I will even suppose that the powerful, and in my mind, unanswerable objections, made by Mr. O’GRADY, are over-ruled, and that it is admissible to set out on the indictment, only a garbled part of the import of the oath, instead of the import of the whole. In short—I will sup-

pose every thing but this, that to swear to persevere in endeavouring to form a brotherhood of affection among Irishmen of every religious persuasion, even taken as a substantive and complete Oath in itself, is an unlawful, or can bear the monstrous interpretation given to it in the indictment, namely to "persevere in endeavouring to prevail on Irishmen of every persuasion, to become members of the society of United Irishmen." Where so great a perversion of the common meaning of words, and so egregious a violation of common sense, appears on the face of the indictment, it cannot be deemed necessary to send it to the Jury. Can it be necessary, that they should decide, whether a sentence, conveying in the plainest terms, the description of a high moral duty—a duty that forms the basis of Christianity—a duty which the imperious voice of God, the common Father of us all, demands, whilst regarding us equally as his children, however diversified by opinion, he requires that we should love each other as brethren, nor suffer our affection as such to be injured by any invidious distinction of sect or religion: can it, I say, be necessary, to require of a Jury, to decide what the meaning of that simple sentence is, which exacts the constant performance and inculcation of this moral duty. If our unhappy country be torn by internal factions, which under the profaned name of religion, commit on each other every species of outrage and barbarity: If the poor, the ignorant, and the superstitious of our countrymen, whether under the denomination of Defenders, Peep-of-Day Boys, or Orange-men, be excited by the cruel sacrifice of others, to the commission of acts, equally destructive to their country, and disgraceful to human nature; and if these horrors have been exhibited under the appearance of fanatic distinctions of religion, does that man do an unlawful act, who calls his God to witness that he will persevere in undeceiving his countrymen, in disarming their mutual resentments, and restoring them to that brother-

hood of affection, which as children of the same divine Parent, they should never have forgotten? Is such a man, without having taken any other obligation whatsoever, a United Irishman? has he pledged himself thereby to persuade others to become members of any society formed, either really or fictitiously, for obtaining a Parliamentary Reform, or any other purpose? if not, what becomes of that distorted construction, which would pervert the inculcation of a moral duty into an obligation for the accomplishment of criminal designs? it must fail and meet its fate from the decision of your Lordships, which I trust on the grounds I have stated, will prove fatal to this indictment.

The Counsel for the Prosecution thought it unnecessary to answer the arguments made use of by the Prisoner's Counsel.

MR. BARON METGE said, that in his mind there were but two Counts in the Indictment to which the Evidence could go, and these were the third and sixth—the third, that he, on the 16th of May, tendered an Unlawful Oath to one *Charles Callanan*, to the import following, that he would persevere in endeavouring to form a brotherhood of affection among Irishmen of every religious persuasion—and the sixth, that he caused to be tendered an Unlawful Oath to the same effect. It is said, that the offence does not fall within the 27th of the King, and the preamble is relied upon in support of the position, that to tender an Oath for such purposes as laid in the Indictment, does not fall within the letter or spirit of the Act—in my mind, it is only to read the preamble to that Act in order to get rid of the argument. His Lordship then read the preamble to the Act of the 27th of the King.—And yet we are told, that because there is another Act, namely, the 36th of the King, which increases the penalties of the former, for taking Oaths not lawful, for certain purposes, that therefore the rest are all repealed. In my mind, the question is, whether it is an Un-

lawful Oath, as it is laid in the Indictment, or not? "Intending to raise insurrection feloniously did tender an Unlawful Oath"—I say it is within the letter and spirit of the Act, and was unlawful at common law---it cannot be considered in any other light.---The next Statute, in my mind, was made to meet a crime not comprehended in the former—His Lordship here went fully into the difference in wording of the two Acts, and the reasons upon which both were founded, and said, it was only to state the Indictment and Act, to answer all the objections made by the Counsel on the part of the Prisoner. With respect to the Oath; that was matter of consideration for the Jury, whether the import, as laid in the Indictment, had been sustained by the Evidence produced. With respect to the Evidence he had only to add, that the Act upon which the Indictment was founded had superseded the necessity of doing more than setting out the import of the Oath, and there seemed to be but a difference of two words between the import as laid in the Indictment, and the Oath as sworn to by the Witness.

His Lordship said, he would not then wish to go into the Evidence, but repeated this to shew that it is of the import; the word wanting is "persevere;" and in his mind, the offence as laid in the Indictment falls within the 27th of the King.

MR. BARON SMITH said, that every question arising on these acts required to be determined with the utmost solemnity, and but for that he would content himself with saying, that he perfectly coincided in every thing that had fallen from MR. BARON METGE. His Lordship then recapitulated the several objections which had been made: the tendering of unlawful oaths was one of the great mischiefs which were complained of; it was impossible for any man, who had attended to the situation of the country at that period, not to feel it was the most wise and salutary clause that could be devised; these were the oaths that bound the un-

happy men together; the bond by which themselves and their families were brought to destruction; it was therefore humane to break it, by introducing that clause which was most likely to prevent the mischiefs. As to the question, whether the oath as tendered was of the import laid in the indictment, that is to be decided by the Jury; if they are of that opinion, it is only to be considered whether the general import has been set out, and there is no doubt if the Jury are of that opinion, but that it comes within the act of the 27th of the King.

JOHN M'FARLAND, *first Witness on behalf of the Prisoner, examined by Mr. H. SHEARES.*

Q. Do you remember Thursday, the fourteenth of this Month?

A. I don't know it by the day of the month.

Q. Do you remember Thursday last?

A. Yes, I do.

Q. Do you know one M'AULY?

A. Yes, I have seen him often.

Q. When did you see him last?

A. I saw him here, I know him two years.

Q. Did you see him any time last week?

A. I did.

Q. Did you carry any message from him to any person?

A. I did.

Q. To whom?

A. To THOMAS NIXON.

Q. What was the nature of that message?

A. To see if we could make interest to get THOMAS NIXON bailed out of gaol, and he told me to go and tell him, NIXON, that if he would do as he had done, and be an honest fellow, that he would get him out: I got no reply from him.

Q. Did he tell you what he had done, or intended to do?

A. He did not, nor I did not enquire.

Q. Did M'AULY, on your oath, make use of the name of DRY?

A. Not at that time.

Q. Did he at any other time say, let him not think that through interest in him any thing could be done for DRY?

A. He did—I never saw DRY 'till I saw him here now.

Q. Did you ever, at any time, hear him talk of a reward?

A. Yes, he said that if NIXON did as he ought do, he would get a reward, and be rewarded.

Q. What did he mean by doing what he ought to do?

A. I do not know.

Q. Upon your oath?

A. Upon my oath, nor did I ever ask him.

This Witness was not cross-examined.

RICHARD WOODS, the second Witness, examined by Mr. JOHN SHEARES.

Q. Do you know M'AULY?

A. I do, Sir.

Q. Did you at any time, and when, go with him and any other person to the North-gaol of this town?

A. I did.

Q. Did you go of your own accord, or did he call on you?

A. He called on me for that purpose.

Q. What was the purpose he called on you to go to that gaol for?

A. He told me he was going to a man of the name of NIXON, and that he would be glad of me to go with him to his room, for that he had something to say to him that would be of service to him.

Q. Did you go?

A. I did.

Q. Who was with you besides?

A. A man of the name of HAMILTON.

Q. Was he a soldier?

A. He was...

Q. Did they speak to him in your presence?

A. No; he told me they wanted to speak to him on business I was unacquainted with.

Q. Did NIXON, M'AULY, and HAMILTON go out of the room?

A. No, they conversed in a corner of the room.

Q. Did you hear what passed?

A. Not much, but the argument became loud, and then I heard a good deal.

Q. Did you hear the name of DR Y?

A. I did.

Q. Did you hear any proposition was made about him?

A. When M'AULY came to the side of the room and took me by the coat, and said, if this man will do as I desired him he shall be liberated on this night, and should get a reward besides.

Q. Did you hear the name of DR Y mentioned?

A. I did.

Q. Did you hear what service was required of NIXON, by M'AULY?

A. I heard NIXON ask M'AULY what he would have him do.

Q. What answer did he make?

A. That if he would turn approver against DR Y and others, he should be well rewarded.

Q. Did he mention the reward he was to get?

A. No, Sir.

Q. Do you recollect did he mention any particular thing, that he wished him to swear against DR Y?

A. No.

Q. Did he mention the United Irishmen's books?

A. No, not in my presence.

Q. What did NIXON say?

A. He said he would do every thing to get his liberty, but that he could not stay in Cork after it: and M'AULY said, you shall get sufficient money

to take you to any country you choose to go to, if you do as we desire you.

Q. What followed after?

A. I can't exactly recollect.

Q. Did he take him by the hand?

A. He did.

Q. Did he make use of any expression of satisfaction?

A. I went to the back part of the room again.

Q. Did he express any pleasure?

A. He did.

Q. How?

A. By shaking hands together.

MR. EGAN. Q. How long have you been an United Irishman?

A. Not long.

Q. How long?

A. I was never one, Sir.

JOHN HAUGHTON, *the third Witness, examined by Mr. H. O'GRADY.*

Q. Do you know M'AULY the soldier?

A. I do, sir.

Q. Were you lately in company with him?

A. I was on Friday last.

Q. Was Hamilton the serjeant with you?

A. He was.

Q. Did you hear M'Aully say any thing particular on Thursday last?

A. I did.

Q. Do you recollect the day that Nixon was brought to be examined?

A. I do.

Q. What did you hear M'Aully say; where did you meet?

A. At a house, the sign of the cock of the rock in Barrack-street.

Q. Did you hear him say any thing of Nixon?

A. I heard them say they would call next morning, if they would get leave from their Officers, as

they were sure they would: M'AULY said, that if he acted against DRY and the others, as he and HAMILTON intended, he should be rewarded for the time he was in prison.

Q. Did he say any thing about making a Gentleman of him?

A. Not more than I told you.

Q. Did he say any thing in case he refused?

A. Did not hear him.

Q. How was the Gentleman dressed?

A. He had his uniform on.

Q. Had he soldiers clothes, had he a serjeant's hat on?

A. Yes, a laced hat and a sword by his side.

No cross Examination.

Mr. HENRY TOWNSEND DALY (the fourth witness) examined by Mr. H. GRADY.

Q. You are an Attorney?

A. I am, Sir.

Q. Do you know THOMAS NIXON, now in prison?

A. I saw him.

Q. Do you know of his being sent for to prison on Friday last?

A. He was, I understand.

Q. Did you know for what purpose he was sent for?

A. I did not.

Q. When he came did you see M'Aully there?

A. I did not.

Q. The Witness that was on the table.

A. I saw two soldiers.

Q. Of the Roscommon regiment?

A. Yes.

Q. Did you see DRY there?

A. I did.

Q. You were taking down some informations?

A. I was.

Q. From whom?

A. From NIXON.

Q. Who dictated to you what you were writing ?

A. I took what Nixon said.

Q. In the presence of the soldiers ?

A. No.

Q. Were they present ?

A. No.

Q. Did you swear Nixon ?

A. No.

Q. Was he threatened by any person, and whom, that he had a rope about his neck ?

A. I did not hear any thing about a rope, and threatening—he said, he could tell a great deal, as he was acquainted: and he refused to tell unless he was acquitted.

Q. Did any person by threaten him ?

A. There was nobody by but Mr. Day and I.

Q. Did he make use of any words to threaten him ?

A. No.

Q. What did he say to him ?

A. To tell the whole transaction.

Q. Is that all ?

A. Yes.

Q. When you reduced all this to writing did you ask him to swear it ?

A. No.

Q. Did any person ?

A. No; what I took I conceived could not be of any use.

Q. Why did you take it down ?

A. Because I was requested.

Q. Did you not ask him to swear it ?

A. No.

Q. What was done with him when that was done ?

A. He was sent back.

Q. Was he not brought there to give evidence against Dr. Y, because there was not sufficient to convict him ?

A. I believe he was.

Counsel for the Prosecution—Q. Do you believe it

was because there was not sufficient evidence against DR Y?

A. Oh, no.

Q. What did you do with the paper?

A. I burned it.

Q. Were you desired to burn it?

A. No I was not.

Not cross-examined.

*LUCY ATKINS, the fifth Witness, examined by Mr. H. SHEARES.*

Q. You remember Sunday last?

A. Yes, sir.

Q. Were you at the North Prison, in this City, in the course of that day?

A. Yes, I was there in the evening, with others.

Q. Did you see there the Prisoner at the Bar?

A. I did, Sir.

Q. Did you see a man by the name of CHARLES CALLANAN?

A. Yes, there was a man of the name came in there, I never saw him before to my knowledge.

Q. Did he go into the room where the Prisoner was?

A. He did, and shook hands with them all round, and sat down in a chair, and when he sat down he enquired for DR Y.

Q. Do you recollect the manner in which he did it?

A. Yes, where is DR Y?

Q. DR Y was present then?

A. Yes, he was just over-right him.

Q. Did it appear to you that he was ignorant which of the company was actually DR Y?

A. He was surely so, he appeared not to know who he was.

Q. Did he make use of any expressions?

A. He said it was FREDERICK CLARKE that had instigated him to do what he had done, and that he was very sorry for it, and another man,

whose name I do not recollect, that had told him that if he did not do as he bid him, that his Brother-in-Law, Mr. ANDREWS, should forfeit his commission, which he should look to.

*Court.*—*Q.* You say when he went into the room that he shook hands with them all; did he shake hands with DRY?—*A.* Yes, I am sure he did.

*Q.* He expressed a concern for what he had done lately?

*A.* Yes he did, and said he was led into it by the persuasions of FREDERICK CLARKE.

No cross examination.

**EDMOND FITZGERALD, the sixth Witness, examined by Mr. JOHN SHEARES.**

[*This Witness and JOHN SULLIVAN, who were both in gaol, were brought up, at the motion of the Prisoner's Counsel.*]

*Q.* What are you charged with that you are in prison?

*A.* For an assault.

*Q.* Do you remember Friday or Saturday last, seeing two Soldiers together in any particular place?

*A.* I saw two Soldiers together, but I do not know their names: I was at liberty at this time on my recognizance; I would know one of them if I saw him.

*Q.* Where did you see them?

*A.* At Mr. AUSTEN's below the Exchange.

*Q.* Is that a public house?

*A.* It is a porter-room.

*Q.* What time of the day?

*A.* It was in the morning.

*Q.* What did you hear them say?

*A.* I heard them mention the names of Dry and Nixon. When I heard the conversation, I put my foot on my companion's, and desired him to mind what was said, and one of them that was opposite to me, laid if we don't stick to one another, as Nixon

failed, we will be apt to come to trouble and punishment.—When I was sent to goal, I mentioned the transaction, and was served with a subpæna to tell it.

Q. Did they mention what kind of punishment they were likely to meet with ?

A. They did not, that I heard.

*Cross Examined by Mr. EGAN.*

Q. Which was the word trouble or punishment ?

A. Both the one and the other.

Mr. EGAN—We will allow, to save the time of the Court, that the two soldiers he saw, were M'Auly and Hamilton.

It was desired by the prisoner's Counsel, that M'Auly should be re-produced, to be confronted by this witness, and also that Hamilton, the serjeant, should be sent for, which was done.

*JOHN SULLIVAN, the seventh Witness, examined by Mr. H. O'GRADY.*

Q. Do you recollect Saturday last ?

A. Yes.

Q. Do you know Fitzgerald ?

A. I do.

Q. Do you recollect Austen's house ?

A. I do.

Q. Were you there on that day ?

A. I was.

Q. When you went in did you see any body dressed as soldiers ?

A. I did.

Q. How many were drinking together ?

A. Two—they were drinking out of tumblers.

Q. Did you know their names ?

A. No.

Q. Did you their uniform ?

A. Scarlet and black.

Q. Had the soldiers any thing before them ?

A. I did not see any liquor.

Q. Did they say any thing particular?

A. I heard them speak of *Dry* and *Nixon*.

Q. Then you came closer to them?

A. No, I did not move myself, but Fitzgerald trod upon my foot, and desired me to mind what they were saying.

Q. What did you hear them say?

A. That if *Nixon* did not do what they required of him, we shall be punished,—a man with sandy hair, said it.

*M'Aulay* brought on the Table again.

Q. (To the witness) is that the man you saw?

A. The very man.

Q. (To *M'AULY*) Do you remember the night after *NIXON* was sent back to Gaol, being in company with *HAMILTON*?

A. I was.

Q. Were you drinking porter in *AUSTEN*'s house, last Saturday?

A. I do not know. No, I was not, to the best of my opinion.

Q. On the Flags, near the 'Change?

A. No, I cannot recollect.

Q. Do you believe you were?

A. I was not.

Q. Did you see him (the Witness) on Saturday last?

A. I don't recollect that I ever saw him before this day.

Q. Had you ever any conversation with *HAMILTON*, in a porter-house, about *NIXON*'s not doing what he ought to do?

A. I had not. I believe I had some, but don't know where.

*Court*.—Q. Were you drinking liquor out of tumblers, on Saturday morning? A. I don't know but I may, but can't recollect.

Mr. *EGAN*.—Q. Were you drinking in *Aus-*

TEN's public house, on the Flags, near the 'Change, on Saturday last—he says you were?

A. I was not. On my oath I never saw him there, or any where else.

Q. Then what did you say?

A. I said he sent for me, to tell the truth, and that he had not done it, and that I should do it as an individual.

Q. Did you tell him that after NIXON was sent home?

A. I can't point out any particular time—I did not know whether he was in Gaol, or not.

Q. How do you know he went back?

A. Because what he said, he could do, he would not.

Q. Was it after he was sent back from Alderman Shaw?

A. It was.

*Serjeant Hamilton produced.*

Q. (To witness.) Was he one of the men?

A. On my oath he was one of the men in company.

The same question put to *Sullivan*.

Q. That is the very man, it was he that said the words; he was nearer to Fitzgerald than I was.

*Prisoner's Defence closed here.*

Mr. JOHN SHEARES.—Your Lordship will recollect the Witness swore, the man that made use of the expression had sandy hair, and it now appears that HAMILTON, of whom we have heard so much, has exactly the kind of hair the Witness swore to.

Mr. BARON METGE charged the Jury at some length, and recapitulated the whole of the evidence with great minuteness.

Mr. BARON SMITH said, it was unnecessary for him, in consequence of the very able Charge of his brother Judge, to add any thing to what had

fallen from him, but that he totally coincided in every thing he had said.

The Jury retired for a short time and brought in a verdict—**GUILTY.**

**Sentence—TO BE TRANSPORTED FOR LIFE.**

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In four days after Verdict in this Case, a Motion, in Arrest of Judgment, was made by Mr. JOHN SHEARES, Counsel for the Prisoner; which, though refused, was so highly applauded for its ingenuity and address, by the learned Judges who tried the cause, that we must regret not having been apprized of it in sufficient time to take regular notes of the argument, and include it in this Publication. Unwilling to give a mutilated and imperfect account of it, and considering it as a subject of considerable moment, as involving a question of great legal magnitude, we have obtained from Mr. SHEARES a promise, not only to furnish us with the principal heads, as delivered by him, but with such further arguments in Notes, as have since occurred to him, in answer to the objections, which fell from the Counsel for the Crown, and from the Court.

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### ERRATA.

In Title Page, for the line—*At the King's Old Castle, Cork*—Read, *At the Guild-Hall, Cork.*—In the Names of the Jury, for *Jeremiah Galway*—Read, *Gerard Galway*—and for *John Bernard*—Read, *John Befnard*.

*Ex. J.M.  
12/11/12*